

EXHIBIT E

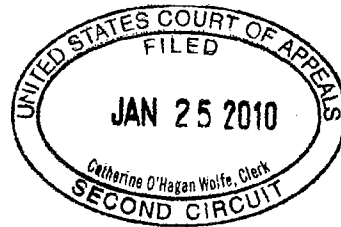
S.D.N.Y.-N.Y.C.
03-cv-5194
Scheindlin, J.

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 25th day of January, two thousand ten,

Present:

Robert D. Sack,
Robert A. Katzmann,
*Circuit Judges.**



Morgan Stanley & Co., Incorporated,
Goldman Sachs & Co.,

Defendants-Petitioners,

v.

09-3533-mv

Lawrence Fogarazzo, Carolyn Fogarazzo,
Stephen L. Hopkins, Don Engel,

Plaintiffs-Respondents.

Petitioners, through counsel, move, pursuant to Federal Rule of Civil Procedure 23(f), for leave to appeal the district court's order granting Respondents' motion for class certification. Upon due consideration, it is hereby ORDERED that the petition is DENIED because an immediate appeal is unwarranted. *See Sumitomo Copper Litig. v. Credit Lyonnais Rouse, Ltd.*, 262 F.3d 134, 139-40 (2d Cir. 2001).

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk


Catherine O'Hagan Wolfe

*The Honorable Richard J. Sullivan, District Judge for the United States District Court for the Southern District of New York, sitting by designation, has recused himself from consideration of this motion. Pursuant to Second Circuit Local Rule 0.14(b), the matter is being decided by the two remaining members of the panel, who are in agreement.

SAO:df